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ABSTRACT

Wisconsin supports the implementation of equity as a critical component of achievement-oriented, reality-based education. This publication was designed to assist districts in conducting ongoing self-evaluations. It outlines requirements (with the legal citations for each), notes benchmarks, and includes suggestions for evaluation methods. Following the preface, a brief historical overview of antidiscrimination legislation in Wisconsin is presented. Other sections include a table of related civil rights laws, a copy of the Wisconsin statute and administrative rule, definitions of terms, a table for measuring compliance with policy and procedural requirements, answers to commonly asked questions, and a list of Department of Public Instruction resources. Appendices contain the following: examples of required policies and procedures, a description of school-district complaint process, elements of the Wisconsin statute and rule, an annual reporting form, and a 5-year self-evaluation summary form. (LMI)

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Pupil Nondiscrimination Guidelines

ASSESSING SCHOOL DISTRICT COMPLIANCE WITH S.118.13 OF THE WISCONSIN STATUTES AND PI 9 OF THE WISCONSIN ADMINISTRATIVE CODE

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WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION/JOHN T. BENSON, STATE SUPERINTENDENT

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Pupil Nondiscrimination Guidelines

Assessing School District Compliance with
S. 118.13 of Wisconsin Statutes
and
PI 9 of the Wisconsin Administrative Code

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Foreword

That equity in our schools is essential for true educational excellence is a long-established and accepted principle in Wisconsin.

Wisconsin supports the implementation of equity as a critical component of achievement-oriented, reality-based education. This support and expectation comes from the Legislature, from business and industrial leaders, from community organizations, from parents, from pupils, and from the school districts themselves. Consequently, there is an understanding in Wisconsin that creating and maintaining equitable learning environments can significantly improve schools' effectiveness.

Wisconsin is recognized nationally for its commitment to fairness in the workplace. The state's pupil nondiscrimination statute serves as pupils' introduction to the rights and responsibilities they will enjoy as adults. In addition, the statute provides the support that school districts need to continue their efforts to make the direct connection between equity and achievement and to ensure the quality education we all want for our children.

As local districts, through nondiscrimination policies and practices, work toward their goals of higher pupil achievement and greater independence for those traditionally not successful in the educational, economic, and social systems of our state, they need a means to assess their progress. This publication will assist districts in conducting ongoing self-evaluations. It outlines requirements (with the legal citation for each), notes benchmarks, and includes various suggestions for evaluation methods. This document is intended as a practical introductory tool, with a report form to indicate findings, any shortcomings that may exist, and proposals for remediation if necessary. The department is developing an additional technical assistance handbook that will provide greater detail for districts implementing the nondiscrimination statute and its rule. In addition, the department provides technical assistance through its Equity and Multicultural Education Section.

Capitalizing on this opportunity demands continued leadership, focus of effort, coordination of resources, and provision of technical assistance.

It is with enthusiasm, then, that the Department of Public Instruction joins in partnership with local school districts to support equal educational opportunity.

John T. Benson
State Superintendent

Wisconsin has a national reputation for having enlightened government at the state, county, and municipal levels, and its public schools are ranked among the best in the nation.

One reason for this high ranking is the state's commitment to equitable education for all pupils, starting with legislation enacted by the territorial governing bodies in the 1800s.

The purpose of this publication is to strengthen that commitment by helping Wisconsin's public schools build on the policies, practices, and procedures long in use to ensure equal educational opportunity.

History of Pupil Nondiscrimination

When the Wisconsin Constitution was adopted in 1848, it called for free schools open to all pupils of all races and religious beliefs, even though slavery was still legal in other states. Many of the territories granted statehood during that period either established segregated public schools or excluded blacks, Indians, Hispanics, and other students of color from the schools.

In 1933, the Legislature prohibited discrimination in the hiring of teachers based on race, nationality, political, or religious affiliation. In 1949, it became illegal for a school board to exclude any pupil from public school based on religion, nationality, color, or race or to maintain separate schools to achieve exclusion.

The implementation of several federal laws and decisions in federal courts prompted a revision of state statutes. The federal Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin. Title IX of the Education Amendments of 1972 outlaws sex discrimination in the programs or activities of any school receiving federal funds, and the federal Rehabilitation Act of 1973 promotes and expands educational opportunities for people with disabilities. The Americans With Disabilities Act and its regulations provide equal educational opportunity for "otherwise qualified handicapped individuals in all educational programs."

On a state level, s. 118.13, Wis. Stats., was revised in 1975 to prohibit discrimination on the basis of sex, race, religion, physical condition, developmental disability, or national origin in admission and in "obtaining the advantages, privileges and courses of study in public schools throughout the state." In 1977, another change gave the state superintendent of public instruction the authority to promulgate rules to implement this section of the statute. It also banned sex discrimination in athletics. A provision was added in 1983 requiring school districts to make program modifications and services available to pregnant and school-age mothers to enable them to continue their education.

The 1985 budget bill repealed s. 118.13, Wis. Stats. and created in its place a new and more comprehensive. The new statute required the state superintendent to promulgate rules for implementation. It emphasizes a shift to local resolution of complaints and a clarification of the state appeal role.

The Present

S. 118.13, Wis. Stats., bans pupil discrimination in any curricular, extracurricular, pupil services, recreational, or other program or activity on the basis of sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability.

Administrative rules implementing the law took effect on November 1, 1986, after extensive input from education and other groups. These rules required that by August 1, 1987, each district review and, if necessary, revise its policies on nondiscrimination; ensure it has a process to resolve complaints locally; and follow through on compliance reporting procedures. While this process has taken a concentrated effort by the school boards, administrators, teachers, and the community, once completed, the procedures offer many long-term benefits.

Each district will find that locally established policies and procedures will

- enhance the school district's goals for excellence and achievement by all pupils,
- create local guidelines that are orderly and allow for complaints to be resolved administratively initially at the local level,
- resolve many of the ambiguities associated with civil rights and nondiscrimination laws as they relate to pupils and schools, and
- provide an opportunity for involvement of the general public in understanding and helping create local guidelines of benefit to both the school and community.

The administrative rules require that each school district annually submit a compliance report to the state superintendent. The state superintendent must submit a compliance review to the Legislature biennially. The state superintendent must also hear appeals of school board decisions that are not resolved locally under s. 118.13, Wis. Stats., and ch. PI 9, Wis. Admin. Code, as provided in ch. PI 1. The Department of Public Instruction (DPI) is required to provide technical assistance to school districts at their request to help implement the statute and rules.

Wisconsin school districts using this guide will

- provide an orderly process for assessing the status of the school district's implementation of equitable policies, practices, and procedures;
- help plan for the district's future;
- build a positive school environment;
- help schools meet their overall goals, objectives, and statutory requirements;
- provide an opportunity for involving the general public in achieving educational equity; and
- enable the school district to provide a model for leadership in achieving equity in its communities.

Suggestions for Using This Guide

Suggestions for using this guide include the following:

- Form an evaluation committee as required under PI 9.06(2). Note that pursuant to PI 9.06(2) the following personnel should be included: pupils, teachers, administrators, parents, and residents of the school district. Many districts have found it very helpful to meet with a large committee for an overview of the self-evaluation requirements, then divide into smaller groups to gather the information by sections listed under PI 9.06. In those districts, the "designated employe," or "Equity Coordinator," coordinates the self-evaluation. The coordinator's role is to train the committee, chair committee meetings, collect information from subcommittees, and develop a final report which is reviewed by the entire committee. Subcommittee members brainstorm what documentation is needed to review compliances, where the documents are located, and dates indicating when documents should be collected. When the subcommittees bring the information back to the larger group, it can be reviewed and additional information can be collected, if necessary.
- Note that each of the components to be included in the evaluation of nondiscrimination and equality of educational opportunity should be evaluated (PI 9.06 Evaluation [1]). Using the appropriate checklist for the section you are evaluating, determine compliance by the criteria listed in the left-hand column of each page. Make a list of the areas in which noncompliance or weakness is found. Consider the suggestions in the right-hand column; from these suggestions list areas in which a need for improvement is indicated. If possible, designate a person who will be responsible for each improvement task. Consider each instance of noncompliance, including what modifications/remediation should be made by the district, what the target is, and who is responsible for its implementation.
- Using the above information, complete the written report of the evaluation as required in PI 9.06 (3). Appendix E provides a suggested summary format (PI-1198). A district may want to submit an extensive written report or indicate that PI-1198 is only a summary of a more complete product. Someone reading a summary should be able to see what data was collected, how it was analyzed, what was found (in general), and what the district plan is to meet recommendations made by the committee.

Related Federal Civil Rights Laws

Federal Equity-Related Law	Purpose	Who Enforces/ Administers Within U.S. Dept. of Ed.	Type of Statute	Where Can It Be Found?	DPI Responsibility
Title IX of the Education Amendments of 1972	Eliminate sex discrimination in education	Office for Civil Rights (OCR)	Civil Rights	20 USC Sec. 1681-86	Technical assistance
Title VI of the Civil Rights Act of 1964	Eliminate race/ national origin discrimination	OCR	Civil Rights	42 USC Sec. 2000d	Technical assistance
Section 504 of the Rehabilitation Act of 1973	Eliminate disability discrimination	OCR	Civil Rights	29 USC Sec. 794	Technical assistance
IDEA	Ensure appropriate special education and related services	Office of Special Education and Rehabilitative Services	Quasi-civil rights/ funding	20 USC Sec. 1400, *et seq.*	Assistance and monitoring
Title IV of the Civil Rights Act of 1964	Encourage technical assistance and training re: race, national origin, and sex equity issues	Equity Training and Technical Assistance Office	Funding	42 USC Sec. 2000c, *et seq.*	None; optional
Carl D. Perkins Vocational and Applied Technology Education Act of 1990	Improve vocational education programs, with particular attention to special-needs populations	Office of Vocational and Adult Education	Funding	20 USC Sec. 2301, *et seq.*	Administering, monitoring and state leadership
Chapter I of the ECIA	Provide extra help for economically and educationally disadvantaged pupils	Compensatory Education Office	Funding	20 USC Sec. 3801, *et seq.*	Monitoring and assistance
Equal Educational Opportunity of 1974	Ensure that schools take appropriate action to overcome language barriers and meet the educational needs of limited-English proficient individuals	Office of Bilingual Education and Minority Language Affairs	Funding	20 USC Sec. 3221, *et seq.*	Monitoring and assistance

118.13 Pupil discrimination prohibited. (1) No person may be denied admission to any public school or be denied participation in, be denied the benefits of or be discriminated against in any curricular, extracurricular, pupil services, recreational or other program or activity because of the person's sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability.

(2) (a) Each school board shall develop written policies and procedures to implement this section and submit them to the state superintendent as a part of its 1986 annual report under s. 120.18. The policies and procedures shall provide for receiving and investigating complaints by residents of the school district regarding possible violations of this section, for making determinations as to whether this section has been violated and for ensuring compliance with this section.

(b) Any person who receives a negative determination under par. (a) may appeal the determination to the state superintendent.

(3) (a) The state superintendent shall:

1. Decide appeals made to him or her under sub. (2)(b). Decisions of the state superintendent under this subdivision are subject to judicial review under ch. 227.

2. Promulgate rules necessary to implement and administer this section.

3. Include in the department's biennial report under s. 15.045(1)(d) information on the status of school district compliance with this section and school district progress toward providing reasonable equality of educational opportunity for all pupils in this state.

(b) The state superintendent may:

1. Periodically review school district programs, activities, and services to determine whether the school boards are complying with this section.

2. Assist school boards to comply with this section by providing information and technical assistance upon request.

(4) Any public school official, employe or teacher who intentionally engages in conduct which discriminates against a person or causes a person to be denied rights, benefits or privileges, in violation of sub. (1), may be required to forfeit not more than $1,000.

Section note: Ch. 418 s. 929 (55)(a), Laws of 1977; 1983 Acts 374, 412; 1985 Act 29; 1987 Act 332; 1987 Act 332 s. 66a provides that sub. (4) takes effect July 1, 1989; 1985 Act 29 s. 3043 (1) provides that the state superintendent shall submit the rules required under s. 118.13 (3) (a) 2 in final draft form no later than July 1, 1986; 1991 Act 31 amends 118.13(1) by the addition of religion to the protected groups.

Administrative Rule

PI 9.01 Discrimination Prohibited. This chapter establishes procedures for compliance with s. 118.13, Stats., which provides that no person may be denied admission to any public school or be denied participation in, be denied the benefits of or be discriminated against in any curricular, extracurricular, pupil services, recreational, or other program or activity because of the person's sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional, or learning disability. This chapter does not intend to prohibit the provision of special programs or services based on objective standards of individual need or performance to meet the needs of pupils, including gifted and talented, special education, school age parents, bilingual bicultural, at risk and other special programs; or programs designed to overcome the effects of past discrimination.

History: Cr. Register, October, 1986, No. 370. eff. 11-1-86.

PI 9.02 Definitions. In this chapter:

(1) "Bias" means an inclination for or against a person or group of persons based, in whole or in part, on sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability, that inhibits impartial or objective judgment affecting pupils.

(2) "Board" means the school board in charge of the public schools of a district.

(3) "Curricular program or activity" means a particular course or courses of study within the scope of the curriculum.

(4) "Department" means the Wisconsin department of public instruction.

(5) "Discrimination" means any action, policy, or practice, including bias, stereotyping, and pupil harassment, which is detrimental to a person or group of persons and differentiates or distinguishes among persons, or which limits or denies a person or group of persons opportunities, privileges, roles, or rewards based, in whole or in part, on sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional, or learning disability, or which perpetuates the effects of past discrimination.

(6) "Extracurricular program or activity" means an activity not falling within the scope of the curriculum and includes all organized pupils' activities which are approved or sponsored by the school board whether on or off school property.

(7) "National origin" includes pupils whose dominant language is other than English.

(8) "Pregnancy" includes any pregnancy-related condition.

(9) "Pupil harassment" means behavior toward pupils based, in whole or in part, on sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability which substantially interferes with a pupil's school performance or creates an intimidating, hostile, or offensive school environment.

(10) "Pupil services" means a program of pupil support services and activities including counseling, health and nursing, psychological, and social work services.

(11) "Recreational program or activity" means any leisure time activity for school age children approved or sponsored by the school board and includes city recreational programs which are administered by a school board.

(12) "Sexual orientation" has the meaning defined in s. 111.32(13m), Stats.

(13) "State superintendent" means the superintendent of public instruction for the state of Wisconsin.

(14) "Stereotyping" means attributing behaviors, abilities, interests, values, and roles to a person or group of persons on the basis, in whole or in part, of their sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional, or learning disability.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86.

PI 9.03 Policies. (1) Each board shall develop policies prohibiting discrimination against pupils. The policies shall include the following areas:

(a) Admission to any school, class, program, or activity. This does not prohibit placing a pupil in a school, class, program, or activity based on objective standards of individual performance or need.

(b) Standards and rules of behavior, including pupil harassment.

(c) Disciplinary actions, including suspensions and expulsions.

(d) Acceptance and administration of gifts, bequests, scholarships and other aids, benefits, or services to pupils from private agencies, organizations, or persons.

(e) An instructional and library media materials selection policy consistent with s. 121.02(1)(h), Stats., and s. PI 8.01(2)(h).

(f) Methods, practices, and materials used for testing, evaluating, and counseling pupils. This does not prohibit the use of special testing or counseling materials or techniques to meet the individual needs of pupils.

(g) Facilities. This does not prohibit separate locker rooms, showers, and toilets for males and females, but the separate facilities must be comparable.

(h) Opportunity for participation in athletic programs or activities. This does not prohibit separate programs in interscholastic athletics for males and females, but the programs shall be comparable in type, scope, and support from the school district.

(i) School sponsored food service programs under 42 USC ss. 1751 et. seq.

(2) Existing board policies which meet the requirements of this chapter, including those adopted by the board in compliance with federal statutes such as Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973, may be incorporated into the policies required under this chapter. These policies shall be included in those presented for public hearing and commentary under sub.(3).

(3) The policies shall be adopted by the board following a public hearing or an opportunity for public commentary at a board meeting.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86.

PI 9.04 Complaint Procedure. Each board shall:

(1) Designate an employe of the school district to receive complaints regarding discrimination under s. 118.13, Stats., and this chapter.

(2) Establish a procedure for receiving and resolving complaints from residents of the school district or aggrieved persons under s. 118.13, Stats., and this chapter, including a provision for written acknowledgment within 45 days of receipt of a written complaint and a determination of the complaint within 90 days of receipt of the written complaint unless the parties agree to an extension of time; except that:

(a) Appeals under 20 USC s. 1415 and ch. 115, Stats., relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education of a child with an exceptional educational need shall be resolved through the procedures authorized by ch. 115, subch. V, Stats.

(b) Complaints under 20 USC s. 1231e-3 and 34 CFR ss. 76.780-76.782, commonly referred to as EDGAR complaints, that the state or a subgrantee is violating a federal statute or regulation that applies to a program shall be referred directly to the state superintendent.

(3) Notify a complainant of the right to appeal a negative determination by the school board to the state superintendent and of the procedures for making the appeal.

History: Cr. Register, October, 1986, No. 370. eff. 11-1-86.

Note: Included with the department's order promulgating ch. PI 9 was the following applicability statement:

The policies required under ss. PI 9.03 and 9.04 shall be developed before August 1, 1987. Complaints of discrimination received by the board prior to August, 1987, may be handled by any existing complaint procedures provided that the time requirements of s. PI 9.04 are met. In the absence of any board complaint procedure or if the time requirements are not met, the complainant may appeal directly to the state superintendent. Negative decisions of the board may be appealed to the state superintendent under s. PI 9.08(1)(a).

PI 9.05 Public Notice. Each board shall:

(1) Annually provide public notice of board policies on pupil nondiscrimination including the name and address of the designated employe under s. PI 9.04(1) and the complaint procedure under s. PI 9.04(2). The notice shall be a class 1 legal notice under ch. 985, Stats.

(2) Include a pupil nondiscrimination statement on pupil and staff handbooks, course selection handbooks, and other published materials distributed to the public describing school activities and opportunities.

(3) Include the complaint procedure in pupil and staff handbooks.

History: Cr. Register, October, 1986, No. 370. eff. 11-1-86.

PI 9.06 Evaluation. (1) In order to provide the information necessary for the state superintendent to report on the compliance with s. 118.13, Stats., as required under s. 118.13(3)(a)3, Stats., each board shall evaluate the status of nondiscrimination and equality of educational opportunity in the school district at least once every five years on a schedule established by the state superintendent. The evaluation shall include the following:

(a) School board policies and administrative procedures.

(b) Enrollment trends in classes and programs.

(c) Methods, practices, curriculum, and materials used in instruction, counseling, and pupil assessment and testing.

(d) Trends and patterns of disciplinary actions, including suspensions, expulsions, and handling of pupil harassment.

(e) Participation trends and patterns and school district support of athletic, extracurricular, and recreational activities.

(f) Trends and patterns in awarding scholarships and other forms of recognition and achievement provided or administered by the school district.

(g) School district efforts to achieve equality of educational opportunity and nondiscrimination.

(2) The board shall provide an opportunity for participation in the evaluation by pupils, teachers, administrators, parents, and residents of the school district.

(3) The board shall prepare a written report of the evaluation which shall be available for examination by residents of the school district.

History: Cr. Register, October, 1986, No. 370. eff. 11-1-86.

PI 9.07 Reporting. Each board shall submit the following to the department:

(1) Copies of policies and procedures under s. 118.13(2)(a), Stats., and ss. PI 9.03 and 9.04, and notices under s. PI 9.05, upon request of the state superintendent.

(2) An annual compliance report, including the name of the designated employe under s. PI 9.04(1); and the number of complaints received during the year, a description of each complaint and its status.

Note: Included with the department's order promulgating ch. PI 9 was the following applicability statement: By August 1, 1987, boards shall submit the first annual report to the department as required under sub. (2) and provide public notice as required under s. PI 9.05.

(3) A copy of the written report of the evaluation conducted under s. PI 9.06.

Note: Form PI 1197, *Compliance Report—Pupil Nondiscrimination*, may be obtained from Department of Public Instruction, Division for Handicapped Children and Pupil Services, P.O. Box 7841, Madison, WI 53707.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86.

PI 9.08 State Superintendent. (1) The state superintendent shall:

(a) Decide appeals of board decisions made under s. 118.13(2)(a), Stats., and this chapter as follows:

1. The complainant may appeal a negative determination of the board to the state superintendent within 30 days of the board's decision.

2. The complainant may appeal directly to the state superintendent if the board has not complied with the provisions of s. PI 9.04(2).

3. The state superintendent shall utilize the procedures under ch. PI 1 to resolve appeals under this subsection.

4. If the state superintendent finds that the board violated s. 118.13, Stats., or this chapter, the state superintendent shall issue an order to comply which includes a requirement that the board submit a corrective action plan, including a schedule, within 30 days of the board's receipt of the order.

5. The state superintendent shall refer a complaint to the board for resolution if it has not been filed with the board or if the complaint is currently under consideration by the board under the complaint procedure required by s. PI 9.04.

(b) Include in the department's biennial report under s. 15.04(1)(d), Stats., information on the status of school district compliance with s. 118.13, Stats., and school district progress toward providing reasonable equality of educational opportunity and nondiscrimination for all pupils in Wisconsin.

(2) The state superintendent may:

(a) Provide technical assistance to school districts.

(b) Review the policies established by the board under ss. PI 9.03 and 9.04.

(c) Review school district programs, activities, and services to determine whether boards are complying with this chapter and with s. 118.13, Stats. The department may review school districts on a schedule which corresponds with the audit of compliance with school district standards under s. 121.02(2), Stats. The scheduling of reviews does not prohibit the state superintendent from conducting an inquiry into compliance with this chapter upon receipt of a complaint.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86.

Additional Definitions of Terms

Athletic programs or activities. Any organized competitive sports competition, approved or sponsored by the school board, between schools (interscholastic) or within schools (intramural).

Comparable scope. Number of teams in specific sports, length of season, number of contests, number of coaches, levels of competition, number of participants.

Comparable support. Resources, equipment, supplies, cheerleaders, pompon squads, pep meetings, pep bands, mascots, booster clubs, uniforms and warm-ups, travel, food allowances, school-originated publicity, sport-specific clubs, scheduling of games, scheduling of practice times, medical and training facilities and services.

Comparable type. Whether the activity is team or individually oriented, offered in the same season, and uses similar skills.

Complainant. Any person eligible to file a complaint under s. 118.13, Wis. Stats., and ch. PI 9, Wis. Admin. Code; in other words, a resident of the district or aggrieved person.

Creed. A system of religious beliefs, including moral or ethical beliefs about right and wrong, that are sincerely held with the strength of traditional religious views; as defined in s. 111.32 (3m), Wis. Stats.

Discriminatory. Marked by or showing prejudice; biased. Related to the definition of "discrimination" in PI 9.02(5), an adjective describing any practice that discriminates.

Equal. Having the same privileges, status, or rights.

Equitable. Exhibiting or characterized by equity; impartial or reasonable in judgment or dispensation; not necessarily equal or the same.

Equity. Characterized by what is needed to meet the needs of a pupil rather than what is equal.

Interscholastic athletics. Voluntary cocurricular activities that allow boys and girls to compete with individuals or teams from other schools in athletic contests.

Instructional and library media materials selection policy consistent with s. 121.02(1)(n), Wis. Stats. S. 121.02 (1) (n), Wis. Stats. requires that schools "provide adequate instructional materials, tests and library services which reflect the cultural diversity and pluralistic nature of American Society." This is repeated in PI 8.01 (2)(h).

Intramurals. Voluntary cocurricular activities that allow girls and boys to compete with individuals or teams within their own school in athletic contests.

Nondiscriminatory. An action, policy, or practice (including bias, stereotyping, and harassment) that is not discriminatory.

Physical education. A curriculum subject using physical activity as the primary means of teaching developmental skills, building physical fitness, informing pupils about the effects of exercise on the human body, and providing a repertoire of sports skills for lifetime use and building desirable attitudes.

Pregnancy. Any pregnancy-related condition such as pregnancy, child birth, false pregnancy, termination of pregnancy or recovery therefrom, as defined in Title IX of the Education Amendments of 1972.

Protected class. A group of pupils sharing common characteristics who are protected from discrimination under s. 118.13, Wis. Stats., because of their sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional, or learning disability.

School-sponsored food service programs. Any food service program provided by the district under 42 USC ss. 1751 et. seq., including school lunch programs, school breakfast programs, special milk programs, and preschool food programs.

Sexual orientation. Having a preference for heterosexuality, homosexuality, or bisexuality; having a history of such preference or being identified with such preference; as defined in s. 111.32(13m), Wis. Stats.

Meeting PI 9, Wis. Admin. Code

School districts may ensure compliance with policy and procedural requirements through use of the "Evaluation/Implementation" column. Please note that other documents or activities may also provide proof of compliance; this list is not exhaustive. Equally important to compliance is the implementation of policies and procedures.

PI	Requirement	Benchmark	Evaluation/Implementation
9.03 (1) (a)	• Adopt a policy regarding equitable access to any school, class, program, or activity. Include the nondiscrimination statement.	• Board has adopted a policy with accompanying nondiscrimination statement. • Board has established policy implementation expectations.	• Assess evidence that criteria and procedures for assigning pupils to programs and courses have been developed and applied without limiting pupil choices or interests on the basis of their protected group status. • Review copies of course descriptions, guides, and pupil handbooks to ensure that it is clear that all courses and programs are open to all pupils and that course titles and descriptions are free of biases and stereotypes. • Keep a copy of the policy adopted by the school board. • Ensure that courses, programs, or activities (other than interscholastic athletics) that traditionally were separate, such as physical education (sex) and vocational education (sex), are no longer separated by sex or other protected category.
9.03 (1) (b)	• Adopt a policy regarding standards and rules of behavior (including pupil harassment). Include the nondiscrimination statement.	• Board has adopted a policy with accompanying nondiscrimination statement. • Board has adopted a policy prohibiting pupil harassment by protected category. • Board has established policy implementation expectations.	• Critique school rules and policies to determine whether those regarding pupil behavior (including harassment) are nondiscriminatory. • Review available evidence and establish data collection procedures to ensure that standards employed for determining compliance with rules for behavior is nondiscriminatory. Evidence might include disciplinary records or teacher training materials that address behavior issues.
9.03 (1) (c)	• Adopt a policy ensuring nondiscrimination on disciplinary actions, including suspension and expulsion. Include the nondiscrimination statement.	• Board has adopted a policy with accompanying nondiscrimination statement. • Board has established policy implementation expectations.	• Examine policies and procedures to ensure that those regarding penalties or punishments imposed for pupil violations are nondiscriminatory. • Review recent, past, or pending expulsion records to ensure no action is based on discriminatory factors.

PI	Requirement	Benchmark	Evaluation/Implementation
9.03 (1) (d)	• Adopt a policy guaranteeing nondiscrimination in acceptance and administration of gifts, bequests, scholarships, and other aids, benefits, or services from private organizations or persons. Include the nondiscrimination statement.	• Board has adopted a policy with accompanying nondiscrimination statement. • Board has established policy implementation expectations.	• Review eligibility requirements for all pupil aids, benefits, and services to determine that they are nondiscriminatory. • Review evidence that all organizations or individuals who provide aid, benefits, or services to pupils under sponsorship of the district have submitted assurances of nondiscrimination. • Examine pupil employment announcements from community businesses to ensure that in-school announcements are made without restrictions based on protected categories. • Review evidence that criteria and selection procedures for honors, prizes, and awards are applied without discrimination.
9.03 (1) (e)	• Adopt instructional and library media materials selection policy consistent with s. 121.02 (1) (h) and PI 8.01 (2) (h). Include the nondiscrimination statement. *(NOTE: s. 121.02(1)(h) requires that schools "provide adequate instructional materials, tests and library services* ***which reflect the cultural diversity and pluralistic nature of American society."*** *This is repeated in PI 8.01(2)(h).)*	• Board has adopted a policy with accompanying nondiscrimination statement. • Board has established policy implementation expectations.	• Ascertain whether instructional and library media materials have been reviewed for bias. Establish periodic reviews. • Determine whether a standard of equity is a required part of the materials selection policy. • Assess the training that staff have received in selecting unbiased materials, including training content and recency.
9.03 (1)(f)	• Adopt a policy regarding methods, practices, and materials used for testing, evaluating, and counseling pupils. Include the nondiscrimination statement.	• Board has adopted a policy with accompanying nondiscrimination statement. • Board has established policy implementation expectations.	• Examine evidence that staff have reviewed testing and evaluation materials to ensure nondiscrimination; for example, to eliminate cultural, ethnic, and gender bias.* • Review counseling and guidance materials and methods to eliminate bias, stereotyping, and discrimination.*

**also required by Title IX*

PI	Requirement	Benchmark	Evaluation/Implementation
9.03 (1)(g)	• Adopt a policy ensuring comparable facilities, even when separate. Include the nondiscrimination statement.	• Board has adopted a policy with accompanying nondiscrimination statement. • Board has established policy implementation expectations.	• Determine whether facilities are equally available to all pupils according to the same criteria, under the same conditions, and during comparable time intervals.* • Determine whether girls' physical education and athletic facilities are comparable in number and condition to boys', including locker rooms and showers.* • Review evidence from budgeting, accounting, auditing, and management of school property to ascertain that every effort has been made to provide comparable facilities for boys and girls in athletics.
9.03 (1)(h)	• Adopt a policy ensuring equitable participation in athletic programs/activities. Include the nondiscrimination statement. *(NOTE: See "The Pupil Nondiscrimination Guidelines for Athletics" for answers to specific questions regarding this provision.)*	• Board has adopted a policy with accompanying nondiscrimination statement. • Board has established policy implementation expectations.	• Review data from annual pupil interest surveys to ensure that pupils are provided with equitable athletic programs that meet their interests. • Review data regarding practice time and game schedules.* • Review evidence of policies and procedures in regard to cheerleading and other support, including band and pompon squad attendance at comparable girls' and boys' athletic events. • Review policies and practices regarding remuneration of officials at girls' and boys' events.
9.03 (1)(i)	• Adopt a policy regarding nondiscrimination in school-sponsored food service programs. Include nondiscrimination statement.	• Board has adopted a policy with accompanying nondiscrimination statement. • Board has established policy implementation expectations.	• Investigate to see whether food portions are comparable in size for all pupils in the same age range. • Determine whether a plan has been formulated to provide alternative food service based on religious or medical requirements.
9.04 (2)	• Establish procedures for receiving and resolving complaints. • Include in complaint procedure provision for written acknowledgment within 45 days of receipt of a written complaint and a determination of the complaint within 90 days of receipt of a written complaint, unless the parties agree to an extension of time.	• Board has developed, adopted, and disseminated the complaint resolution process.	• Check board policy manual for adoption date. • Collect examples of how policy is disseminated and implemented. • Check pupil and staff handbooks for inclusion of procedure with required timelines. • Review complaints that have been received, indicating that all timelines have been met or extensions agreed to by both parties. • Keep a copy of each complaint resolution. • Check written policies and procedures on file for inclusion of procedure with required timelines.

**also required by Title IX*

PI	Requirement	Benchmark	Evaluation/Implementation
9.05 (1)	• Annually publish a notice (Class 1 legal) of board policies on pupil nondiscrimination, including name and address of employee designated to receive complaints of discrimination. • List all protected classifications (race, sex, national origin, and so forth) in the notification of board policies.	• Board has adopted a procedure for providing public notice of the district's pupil nondiscrimination policy annually. • Board has adopted a general policy of pupil nondiscrimination that includes all required protected groups and is disseminated regularly to all publics.	• If any of the requirements on policies and procedures have not been met, review plans to reach compliance. • Determine whether all staff members have been requested to submit information concerning any instances of discrimination that they may identify in policies and practices. • Appraise efforts (for example, inservices) to disseminate information on nondiscrimination policies to all staff. • Check all existing policies to ensure inclusion of all protected classes. • Keep clippings of the published notice from the local newspaper. • Check materials listed to be sure statement appears. • Keep copies of pupil and staff handbooks, course selection manuals, and other published materials containing the statement. *(NOTE: See PI 9.05(3) for additional requirements in some publications.)*
9.05 (2)	• Include pupil nondiscrimination policy in pupil and staff handbooks, course selection handbooks, and other published materials distributed to the public describing school activities and opportunities.	• Published materials contain a pupil nondiscrimination statement.	• Check handbooks and other published material for inclusion of policy. • Assign responsibility for making sure the statement is included in published materials.
9.05 (3)	• Include the complaint procedure in pupil and staff handbooks.	• Complaint procedure is included.	• Check handbooks for inclusion of complaint procedure. *(NOTE: See PI 9.05(2) for additional requirements in some publications.)*

PI	Requirement	Benchmark	Evaluation/Implementation
9.06	• Evaluate the status of discrimination and equality of educational opportunity in the district. The state superintendent has determined that districts should complete their initial evaluation of pupil nondiscrimination in the year following the Standards review. Subsequent self-evaluations will be necessary every five years. Evaluation shall include assessment of all categories listed in PI 9.06(1)(a)-(i). *(NOTE: See Appendix E for summary form, due August 1 of the self-evaluation year.)*	• Board has established a self-evaluation procedure/process.	• Ensure that assessment activities have been completed, documented, and submitted to DPI by established deadline. *(NOTE: The department provides annual fall workshops to help districts plan and implement the self-evaluation process.)*
9.06 (1) (a)	• Evaluate school board policies and administrative procedures.	• Board has adopted and implemented policies covering all areas required by PI 9.03, following public hearings or an opportunity for public commentary at a board meeting.	• Note date of adoption (and review) for each policy and procedure. • Keep a copy of the evaluation report that includes the required elements. *(NOTE: If there is an existing policy in each area, it can be modified easily to include nondiscrimination assurance.)*
9.06 (1) (b)	• Evaluate enrollment trends in classes and programs by each protected group.	• Data indicate that enrollment of various categories of pupils in classes and programs approximates the overall proportion of pupils in the school population.	• Determine numbers of pupils, by protected group, enrolled in each class. Focus on elective courses. • Repeat the above each year and keep longitudinal records to determine trends. *(NOTE: Enrollment figures vary each year, so multiple-year analysis is crucial.)* • Compare class and program data with overall enrollment data. (Form PI-1290, "School Enrollments" can serve as baseline.) • Sample "target" classes to determine enrollment trends by protected category (for example, advanced math, science, computer science, technology education, family/consumer education). *(NOTE: Districts do not identify pupils on the basis of creed, ancestry, sexual orientation, or marital status; however, all other categories should be used.)*

PI	Requirement	Benchmark	Evaluation/Implementation
9.06 (1) (b) (cont.)			• Establish equitable benchmarks for each protected group. • Identify discrepancies sufficiently large to warrant further examination. For example, classes with more than 80 percent of one sex should be examined for possible enrollment bias. • Review a listing by protected classes of pupil placements and compensation in work-study programs. • Keep a copy of the evaluation report. • Enure that courses and programs are **NOT** listed as being "for" any protected category, such as, "Girls' or Boys' physical education." *(NOTE: Both federal [Title IX] and state statutes prohibit the use of gender to separate pupils in classes or programs.)*
9.06 (1) (c)	• Evaluate the methods, practices, and curriculum used in instruction and counseling.	• All staff members are aware of and practice nondiscrimination in classroom and counseling interactions, as indicated by pupil achievement and course selection.	• Review course outlines and curriculum guides to ensure absence of bias against all protected groups. • Assess practices in evaluating teachers and counselors to ensure that procedures include attention to and correction of common practices reinforcing differences and stereotyping in the classroom. • Review staff development time spent or planned in making teachers and counselors aware of the subtleties of nondiscriminatory classroom practices and methods. • Ascertain whether special training programs have been made available or are planned for teachers (for example, Gender/Ethnic Expectation and Pupil Achievement [GESA]). • Determine whether opportunities have been available or are planned for pupils to explore new or nontraditional career opportunities (for example, "Career Day"). • Review guidance materials (including pupil handbooks describing counseling services and any procedural guidelines outlining responsibilities of counselors) to ensure absence of bias. • Examine district practices by keeping a record of the number of counseling contacts in an average two-week period by protected classes, source of initiation, and nature of the contact.

PI	Requirement	Benchmark	Evaluation/Implementation
9.06 (1) (c) (cont.)			• Cross-check enrollment trends to evaluate possible unintentional bias in counseling practices. • Verify that school referrals to community members for pupil employment and work experience are bias free. • Include attention to bias in teacher-pupil interaction in the staff evaluation process.
	• Evaluate the materials used in instruction and counseling.	• All materials used in instruction and counseling are selected using a procedure that includes checking for bias, are reviewed for bias on a regular basis, and are supplemented with nondiscriminatory materials if they are found to contain bias.	• Keep a copy of the evaluation report. • Examine the formalized procedure for selecting instructional, library, and counseling materials to ensure that all are checked for bias in all protected categories. Such a process should include text, illustrations, questions, and problems. • Appraise the procedure to ensure that all types of material are included, such as films, tapes, posters, and computer software. • Determine whether a written report of the materials-selection review is required. • Ascertain whether the scheduled review of existing materials is being carried out and whether a written report is expected. • Review staff development sessions on selection and review of materials in regard to staff members' awareness of the rationale for the required pluralistic nature of materials and of the various forms of bias. • Determine whether teachers have been trained to recognize bias and to adapt and balance existing materials. • Keep a copy of the evaluation report.
	• Evaluate methods, practices, and materials used in pupil assessment and testing.	• All testing and assessment of pupils occurs under conditions of nondiscrimination in the instrument itself, test setting, methods and attitudes of the tester, and interpretation of results.	• Analyze tests or instruments used for appraisal, evaluation, or placement of pupils to ensure that they provide equitable treatment for all pupils. • Review information and/or training received by counselors regarding nondiscriminatory administration and interpretation of tests and counseling instruments. • Review instructions to staff members requiring that any test used with pupils be examined for bias.

PI	Requirement	Benchmark	Evaluation/Implementation
9.06 (1) (c) (cont.)			• Ascertain whether teachers have received training about the effect of the tester and test setting on test results and about the way unintentional bias may affect results in evaluations. • If the district is part of the DPI competency-based testing program, analyze the required bias-review report. • Review for bias the way in which assessments are used to make decisions about placement and postsecondary counseling. • Keep a copy of the evaluation report.
9.06 (1) (d)	• Evaluate trends and patterns of disciplinary actions, including suspensions, expulsions, and the handling of pupil harassment.	• Data indicate that the various categories of pupils are included in disciplinary actions in numbers approximating their proportion of the pupil body.	• Determine the protected-class status of pupils involved in each type of disciplinary action. • Repeat the above each year and keep longitudinal records to examine for trends. • Compare data on protected classes of disciplined pupils with overall enrollment data. • Analyze trends over several years. • Informally review school practices to determine whether punishments for all groups are identical for the same infraction. • Review referrals to remedial classes to determine whether they may result from bias or stereotyping. • Identify discrepancies sufficiently large to warrant further examination. • Provide staff development on "equitable discipline." • Keep a copy of the evaluation report.
9.06 (1) (e)	• Evaluate trends and patterns and school district support of athletic activities.	• The district's total athletic program effectively accommodates the interests and abilities of all pupils, reflecting equitable support by the district, as shown in participation trends and patterns.	• Review any separate programs in interscholastic athletics for boys and girls to ensure that they are comparable in type, scope, and support.* • Review guidelines and procedures to assess (by school) the athletic interests of pupils. • Compare data on pupil interests to listing of athletic teams/offerings by school, sport, level of competition, number of teams, number of all-male and all-female teams and number of members, number of mixed-sex teams and number of members by sex, and criteria for eligibility/selection.

**also required by Title IX*

PI	Requirement	Benchmark	Evaluation/Implementation
9.06 (1) (e) (cont.)			• Determine from data whether pupils in protected categories are represented in proportion to the school population and whether or not they are concentrated in certain sports. • Examine data to determine whether pupils with disabilities are accommodated or simply excluded from participation. • Evaluate the extent of equitable interscholastic programming, reviewing the following factors: provision of equipment and supplies; scheduling of games and practice times; provision of travel; opportunity to receive coaching, academic tutoring, medical and training services; access to locker rooms and practice and competitive facilities; publicity efforts; availability of supports such as cheerleaders, pep band, or pep rallies.* *(**NOTE**: both federal and state law require comparable support and do **NOT** require that band or cheerleaders perform at **ALL** contests for boys and girls, but at a comparable number for both.)* • Review descriptive materials pertaining to athletic programs (including pupil handbooks) to ensure they clearly state that all teams in noncontact sports for which selection is based on interest rather than ability (intramural teams or clubs) are open to all pupils.* • Review regulations and policies governing separate-sex teams (scheduling, supervision, eligibility requirements for medical examination and scholastic average), behavior requirements, and discipline to ensure they are free from differentiation on the basis of sex.* • Review the school athletic budget to ensure that funds are allocated as needed (facilities, equipment, uniforms, supplies, and so forth) to provide equal athletic opportunities for all pupils. • Compare data collected on athletic teams and offerings with overall enrollment data to judge relative proportions of participating pupils in protected classes. • Keep a copy of the evaluation report.

**also required by Title IX*

PI	Requirement	Benchmark	Evaluation/Implementation
9.06 (1) (e) (cont.)	• Evaluate trends and patterns and school district support of extracurricular and recreational activities.	• Data indicate that participation of various categories of pupils in extracurricular and recreational activities approximates the overall proportion in the school population, reflecting equitable school district support.	• Review guidelines and procedures to determine the protected status of pupils participating in each school-sponsored extracurricular or recreational activity. • Compare participation data with overall enrollment data. • Compare participation data with enrollment trends in classes and programs to determine whether any existing imbalance may reflect stereotyping or discrimination in related classes and programs. • Assess procedures to make teachers and counselors aware of any discrepancies and to encourage pupils of all groups to participate in activities that may be of interest to them. • Review the district budget to determine if there are equitable provisions for support of activities (for example, compensation for sponsors, financial support of trips). • Examine evidence of informal district support (assignment of sponsors, rules for use of facilities, generation of publicity, and so forth) to determine the equity of such support.
9.06 (1) (f)	• Evaluate trends and patterns in awarding scholarships and other forms of recognition and achievement provided or administered by the school district.	• All scholarships and other forms of recognition are awarded in a way that does not discriminate against any of the protected groups.	• Review descriptive materials pertaining to financial assistance to pupils, criteria for eligibility and selection, and application materials to ensure that they clearly state that pupils of comparable qualifications are provided comparable funds for education. • Review procedures to ensure that the policy is being implemented in a nondiscriminatory fashion. • Review procedures and practices to ensure that forms of recognition and achievement other than financial assistance are awarded without discrimination.* • Compare data on protected-category status of pupils receiving scholarships and other forms of recognition with overall enrollment data.

**also required by Title IX*

PI	Requirement	Benchmark	Evaluation/Implementation
9.06 (1) (g)	• Evaluate school district efforts to achieve equality of educational opportunity and nondiscrimination.	• An ongoing equity program is in place, including components of evaluation; interpretation of data collected, with notes of findings in each area; a plan to implement modifications and remediation, with timelines; systematic recordkeeping of remedial steps taken; system of ongoing monitoring of policies, programs, and practices; and logging of affirmative steps/activities the district has taken to achieve educational equity.	• Review steps to formulate and adopt a formal equity plan, if one does not exist. • Review steps to complete self-evaluation. • Ensure that staff members, pupils, and the public have been notified of the equity committee and its members. • Determine whether all pertinent data have been collected, synthesized, and evaluated. • Review steps to disseminate synthesis of data to staff members responsible for remediation. • Assess plans for modifying or correcting discriminatory practices, if they exist, and for maintaining records and documentation relating to modifications. • Analyze plans to institute periodic review of nondiscrimination policies, programs, and practices. • Describe efforts to inform and train staff members about state nondiscrimination requirements. • Keep a copy of the evaluation report.
9.06 (2)	• Provide an opportunity for participation in the evaluation by pupils, teachers, administrators, parents, and residents of the school district.	• A representative of each group participates in the evaluation.	• Ascertain whether the board has provided an opportunity for participation in the self-evaluation by anyone from the various publics by analyzing committee members' roles and the committee's procedures. • Keep a copy of the notice announcing the district evaluation and inviting participation by interested groups.
9.06 (3)	• Prepare a written report of the evaluation and make it available for examination by residents of the school district.	• A written report is available to the public.	• Review plans to prepare a written report of the evaluation (if it has not yet been completed), complete the report, and make it available for examination upon request. • Share the report with the school board. • Keep a copy of the evaluation report.

PI	Requirement	Benchmark	Evaluation/Implementation
9.07 (2)	• Submit a completed PI-1197 form by August 1 annually. *(Note: See Appendix D for "Compliance Report Pupil Nondiscrimination, PI-1197")*	• Reports are on file. Each includes name of local designated employe, the number of complaints received during the year, and a description of each complaint and its status.	• Copies of the annual reports are on file in the district.
9.07 (3)	• Submit PI-1198 by August 1 of the year following completion of the Standards review. *(NOTE: See Appendix E for "School Self-Evaluation Summary, PI-1198")*	• DPI has report on file.	• Keep a copy of the report.

Questions and Answers

Policies

1. **Who will develop the school's policies and procedures?**
Each school board shall develop policies following a public hearing or an opportunity for public commentary at a board meeting. This is outlined in PI 9.03(1) and PI 9.03(3). The task may be delegated to a committee for approval by the board. (See Question 3.) The district administrator could also be assigned to develop local administrative plans, procedures, or rules to implement local policies prohibiting pupil discrimination.

Policies

2. **What shall these policies contain?**
A district's policies shall contain language prohibiting discrimination against pupils on the basis of sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability in the following areas: admissions; standards and rules of behavior, including pupil harassment; disciplinary actions; acceptance and administration of gifts, bequests, and scholarships to pupils from private agencies, organizations, or persons; methods, practices, and materials used for testing, evaluating, and counseling pupils; facilities; opportunities for participation in athletic programs or activities; and school-sponsored food service programs. This is outlined in PI 9.03(1)(a) through (i). In addition, the board shall adopt instructional and library media materials selection policies stating that instructional materials, texts, and library services reflect the cultural diversity and pluralistic nature of our society. This is outlined in s. 121.02(1)(h), Wis. Stats., and PI 9.03(1)(e) and PI 8.01(2)(j). Appendix A contains sample policies.

Policies

3. **What are the requirements for public involvement in policy development?**
Nondiscrimination policies adopted by the board shall follow a public hearing or an opportunity for public commentary at a board meeting, as outlined in PI 9.03(3). Members of the public may also participate in the development of nondiscrimination policies by attending school board meetings and sharing their comments during public comment periods or by serving on the self-evaluation committee once every five years.

Report Format

4. **What format should a school district use to evaluate the status of nondiscrimination and equality of educational opportunity at least once every five years, as required by PI 9.06(1)?**
Although each district may decide on a format that best suits its needs, form PI-1198 (Appendix E) is an example. Those 20 percent of Wisconsin districts responsible for the self-evaluation each year will receive a reminder letter and another copy of the form, although the form in this guide may be duplicated and submitted. In any case, the summary of the evaluation should include each section of PI 9.06, what was assessed, findings, and plans for modification.

Implementation

5. What structure might a school district use to implement the statute and the administrative code?

An effective structure in many Wisconsin districts is the "Equity Committee." The committee, composed of staff members, parents, and pupils, may be chaired by the employee designated to receive complaints under s. 118.13, Wis. Stats., by the Title IX coordinator, by the Section 504 coordinator, or other staff members interested in equity. The committee may develop a timeline, set goals for implementation, review present policies and procedures, and make suggestions for staff development activities. In some districts, the committee reports annually or semi-annually to the school board; in others, the committee reports more frequently to the district administrator.

Employment

6. Does this law protect school district employees?

This law does not protect employees. It is a "pupil" nondiscrimination law. Employees are already similarly protected from on-the-job discrimination against them by Wisconsin's fair employment laws, s. 111.32, Wis. Stats., and by federal employment laws. On the other hand, employees as agents of the district, must observe the mandate of the law and not discriminate against pupils.

Public Hearing

7. What constitutes a "public hearing or an opportunity for public commentary at a board meeting" as required under PI 9.03(2) for adoption of policies?

A district may decide to hold a separate public meeting to provide for public comment on its policies prohibiting pupil discrimination, although a separate meeting is not required. The board may seek public comment at its regular meeting, although the public should be informed in a timely fashion of this agenda item.

Gifts, Bequests, and Scholarships

8. What are the equity issues concerning the acceptance of gifts, bequests, and scholarships?

As a general rule, gifts, bequests, and scholarships may not be awarded to pupils by public or private agencies, organizations, or persons in a way that discriminates against pupils based on their sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability.

Since separate interscholastic athletic teams for boys and girls are legal when equal opportunity is available to each sex, nothing in this law prevents the presentation of sex-restricted postsecondary athletic scholarships. However, when sex-restricted scholarships are awarded, such scholarships must be available in reasonably equivalent numbers and value to members of both sexes. This does not prohibit the awarding of restricted scholarships outside the school without the school's assistance.

Title IX of the federal Education Amendments of 1972 allows school districts to administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance made to members of one sex, if the assistance is established by legal instrument (for example, a will, trust, or bequest) and the overall effect of such sex-restricted scholarships does not discriminate on the

basis of sex. In order to comply with the latter condition. the school district must first select pupils for financial assistance on the basis of nondiscriminatory criteria, such as a showing of need or scholastic standing. The school district may then award sex-restricted scholarships to pupils previously selected for assistance. Pupils cannot be denied scholarships, fellowships, or other forms of financial assistance because the awards were originally designated for persons of the other sex.

Instructional Materials

9. How does the rule affect the selection and evaluation of instructional materials?

According to PI 9.03(1)(e), the district's instructional and library media materials selection policy must be consistent with state statutes and rules requiring collections to be current and balanced and to depict in an accurate and unbiased way the cultural diversity and pluralistic nature of American society. This is contained in s. 121.02(1)(h), Wis. Stats., and PI 8.01(2)(j). The district policy must provide for the selection of up-to-date instructional materials that include images and contributions of males, females, African Americans, European Americans, Asian Americans, Hispanic Americans, Native Americans, people with disabilities, and so forth. Any collection of instructional material could be challenged under PI 9.03(1)(e) if, for example, the material included information about white males exclusively, for the collection would then violate the requirement of "cultural diversity." Contact DPI consultants for instruments designed to assess bias in instructional materials.

Testing

10. How do the statute and rules affect the methods, practices, and materials used in testing pupils?

Methods, practices, and materials used in testing pupils may not discriminate on the basis of race, religion, sex, national origin, ancestry, pregnancy, creed, marital or parental status, sexual orientation or physical, mental, emotional, or learning disability. However, special tests designed to meet the individual needs of pupils are allowed. The special education pupil's individualized education program (IEP) should be used as the basis for decisions concerning participation in a competency-based testing program or any other testing program. For example, a visually impaired or hearing impaired pupil may be required to take an achievement test at a time and place designed to meet the pupil's specific needs. The district does not have to administer the test to him or her in a large group with other pupils. In the case of limited-English proficient pupils, it is recommended that these pupils be tested in their native language until they reach a level of proficiency in English that will enable them to be assessed with accuracy. See PI 9.03(1)(f) for additional information.

Counseling and Guidance

11. Do the statute and rules affect counseling and guidance?

Any methods, practices, and materials used in counseling pupils shall not discriminate on any basis listed in the statute. This section does not, however, prevent the use of counseling materials or techniques to meet the individual needs of pupils. For example, a counselor may have pamphlets in the guidance office that offer advice to pregnant teens. All of the pamphlets may include a discussion

of contraceptives violating some pupils' creeds or religious beliefs. Nothing in the rule prohibits the counselor from sharing the pamphlets with a pupil who expresses a desire or has a need to see them. Note: Counselors may want to take advantage of the provision in s. 118.13 that allows for programs designed to overcome the effects of past discrimination. A suggestion would be to design career/vocational information that is targeted at pupils' biases and stereotypes about certain jobs.

Athletics

12. What do the statute and rules mean for interscholastic athletic programs?

Participation in interscholastic athletics cannot be denied based upon membership in a protected category. However, not all pupils are guaranteed opportunity to participate. They must be "otherwise qualified." Separate programs for males and females are allowed, but the separate programs must be comparable in type, scope, and support from the school district. (See "Additional Definitions," p. 10.) PI 9.03(1)(h) provides additional information. Programs are considered comparable in scope when they satisfy the interests and abilities of the participants. Comparable support does not mean equal dollar support; it means support that satisfies the needs of the program, based on pupil interest and ability. Note: comparable support includes provision of cheerleaders, bands, and pompon squads for comparable programs, such as boys' and girls' basketball. See *The Pupil Nondiscrimination Guidelines for Athletics* for detailed clarification (DPI Bulletin No. 91548).

Physical Education

13. How about physical education instruction?

Pupils cannot be discriminated against in admission to physical education classes on the basis of race, religion, sex, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional, or learning disability. But pupils may be placed in a particular physical education class or activity based on objective standards of individual performance or need. (See PI 9.03(1)(a) for reference.)

Single-sex classes for boys or girls are illegal, K-12, except when elective classes are selected (by chance) only by pupils of one sex. Boys and girls **may** be separated within classes during participation in contact sports such as football, basketball, wrestling, boxing, ice hockey, and speedball. Skill, practice, and instruction in those sports must be coeducational, and nothing in the law requires separation during participation in contact sports.

Pupils legally may be grouped according to skill, strength, or other factors pertinent to a given activity. However, grouping pupils for all physical education on the basis of one test, such as a general fitness test, is inappropriate and illegal.

Pupils with disabilities must be allowed to participate in regular physical education to the extent of their ability. The IEP of some handicapped pupils may require a specially designed course of instruction as provided under PL 94-142 (the Education for All Handicapped Children Act, 20 USC s. 1401, et. seq.).

PI 9 allows separate locker rooms, showers, and toilets for males and females. The separate facilities, however, must be comparable in terms of space, number of lockers, showers, and other locker room facilities.

Other Affected Programs

14. What other school programs, policies, or procedures could be affected by pupil nondiscrimination laws and regulations?
Under PI 9.03(1)(i) and as required by federal food service guidelines, school-sponsored food service programs must be operated without discrimination against pupils. And the school district's disciplinary policies, including rules governing suspensions and expulsions, must be written and carried out so that no pupil or group of pupils is discriminated against on any basis listed in the statute.

Under federal regulations for Title IX and the state statute, schools may make requirements based on vocal range or quality which may result in a chorus or choruses of one or predominantly one sex. Portions of classes that deal exclusively with human sexuality **may** be conducted in separate sessions for boys and girls, but such separation is not required.

Course Enrollments

15. Are there implications for specific courses such as vocational education or advanced courses, in which enrollment is typically not balanced by sex, race, national origin, or handicap?
PI 9 allows pupils to be placed in a class, program, or activity based on objective standards of individual performance or need. An individual pupil with disabilities shall be placed in a vocational education section as required by his/her individualized education program (IEP).

While enrollment in advanced courses may be based on individual performance, if not required to do so by the pupil's IEP, a district may not require pupils with disabilities to take and pass a prerequisite class. Any prerequisite must be open to all pupils.

Evaluation

16. How may the board provide an opportunity for participation in the evaluation by pupils, teachers, administrators, parents, and residents of the school district as required in PI 9.06(2)?
The district may want to establish an "Equity Committee" which includes representatives of the above groups to assist in completion of the reporting form. Representatives of the groups might also be invited to a "town meeting" to review the evaluation process and its results. The district might disseminate information about an upcoming evaluation and invite participation.

State Superintendent's Responsibilities

17. What are the state superintendent's responsibilities regarding s. 118.13, Wis. Stats.?
The state superintendent decides appeals of school board discrimination decisions. The state superintendent is required under PI 9.08(1) to submit information on the status of school district compliance with this statute to the legislature in the department's biennial report. Technical assistance may be provided to assist in complying with this statute, as a district requests.

DPI Reporting Responsibilities

18. What are the DPI's reporting responsibilities to the legislature concerning the status of school district compliance with s. 118.13, Wis. Stats., and school district progress toward providing reasonable equality of educational opportunity and nondiscrimination for pupils in Wisconsin?
In its biennial report to the legislature, the DPI must include information on the status of school district compliance with the statute

and district progress toward providing equal educational opportunity. Information is collected and analyzed based on local school districts' annual and five-year reports and is reported in aggregate form.

Appeals to the State Superintendent

19. What procedure does the state superintendent use to resolve appeals under PI 9.08(1)(a) 1 and 2? Can the state superintendent's decision be appealed?

The state superintendent is required to use the procedures under PI 1 to resolve appeals. Under the current procedures, the state superintendent may investigate the appeal or try to resolve it through conciliation. If after an investigation the state superintendent finds probable cause to believe s. 118.13, Wis. Stats., has been violated, the state superintendent may again try to resolve the complaint through conference or conciliation. If that process is unsuccessful, the state superintendent may conduct an evidentiary hearing and issue a formal decision, as provided by PI 1.05, Wis. Admin. Code. The final decision would be subject to judicial review in circuit court under Chapter 227, Wis. Stats. See Appendix B for how to apply the law and rule in response to a complaint.

20. Can complainants appeal to the state superintendent when they feel the school board has not complied with the provisions of PI 9.04(2)?

Complainants may appeal directly to the state superintendent if the board has not complied with the provisions of PI 9.04(2) by not having a complaint procedure available or by not reaching a determination within 90 days of receipt of a written complaint (unless both parties agree to an extension).

As stated in question 21, complainants must take complaints initially to their local school board for resolution.

21. What procedure does the state superintendent follow if he/she receives a complaint that has not been filed with the school board or if the complaint is currently under consideration by the school board?

The state superintendent shall refer a complaint back to the school board for resolution if it has not been filed with the school board or if the complaint is currently under consideration by the board. See PI 9.08(1)(a)(5), Wis. Admin. Code.

State Superindent's Optional Activities

22. What services may the state superintendent provide to school districts to assist them in achieving equity goals?

The state superintendent may provide technical assistance to school districts. This includes assistance in policy development, staff in-service, review of district procedures, and other consulting services requested by the school district. Requests for such assistance should be submitted in writing to the DPI Equity and Multicultural Education Section.

Federal and State Requirements

23. How can a school district comply with both federal and state requirements in its policies and practices?

See Appendix A for examples of policies that meet both federal and state requirements.

Nonresident Pupils

24. How does this rule apply to nonresident pupils, such as pupils in a consortium arrangement, tuition pupils, Chapter 220 pupils, or postsecondary options pupils?

A nonresident pupil may be an aggrieved party and has a right to file a complaint with the school board in which the alleged violation occurs.

DPI Nondiscrimination Statement

25. Does the statement of nondiscrimination used by DPI meet the requirements of s. 118.13?

The DPI must use the statement in those areas that provide direct programming to pupils. For the most part, however, the department's statement meets the requirements for **employment** laws only and lists the six categories required by federal law.

Special Education Appeals

26. How does this complaint procedure differ from the EDGAR complaint process and special education appeals?

EDGAR complaints and special education appeals are separate from s. 118.13 discrimination complaints and are governed by different procedures.

If a person is concerned about the identification, evaluation, or educational placement of a child with exceptional educational needs or about the provision of a free, appropriate public education to a child with exceptional educational needs, then a request for a special education hearing should be filed. Special education hearings are governed by both state and federal law and regulations—ch. 115, Wis. Stats., 20 USC s. 1415, and 34 CFR 300.506-.513.

If someone believes the state or a local educational agency is violating a federal statute or regulation concerning the provision of special education services, then an EDGAR complaint may be filed with the state superintendent. EDGAR complaints are processed under federal law and regulations 20 USC s. 1231e-3 and 34 CFR ss. 76.780-.782.

Each concern will have to be looked at individually to determine which procedure is most appropriate.

More Information

27. Where can I get more information on implementation of this statute and its administrative rule?

Consultants at the Department of Public Instruction can help. See the resources on the following pages.

Those seeking answers to questions about implementation of the pupil nondiscrimination statute and interscholastic athletics may request another DPI publication, *The Pupil Nondiscrimination Guidelines for Athletics*, from the Bureau for Educational Equity Programs or the Wisconsin Interscholastic Athletic Association. (Bulletin No. 91548)

1992 Addition of "Religion"

28. I notice that "religion" has been added to the list of reasons that may not be used to discriminate against Wisconsin public school students. What must schools do differently to be in compliance?

Students have always been protected from discrimination on the basis of religion under this statute, as evidenced by the word "creed." The legislature felt that the addition of the word "religion" would clarify the intent. Because this addition occurred as this publication was going to press, further clarification of implementation issues will be added to upcoming revisions.

Complaint Resolution

Questions concerning complaints or appeals filed in accordance with PI 1 under s. 118.13, Wis. Stats., should be directed to:

Division for Handicapped Children and Pupil Services

Juanita Pawlisch, Administrator/s. 118.13 Complaint Officer
(608) 266-7475

Bureau for Educational Equity Programs
William J. Erpenbach, Director
(608) 267-1072

Barbara A. Bitters, Chief
Equity and Multicultural Education Section
(608) 266-9609

Dorothy LePage, School Administration/s. 118.13 Consultant
(608) 266-7292

Technical Assistance

When seeking clarification of the statute and rule, ideas for implementation, provision of training, print and audiovisual resources, or other assistance unrelated to an appeal that has been officially filed with the state superintendent, contact the following:

Division for Handicapped Children and Pupil Services

Juanita Pawlisch, Administrator/s. 118.13 Complaint Officer
(608) 266-7475

Bureau for Educational Equity Programs
William J. Erpenbach, Director
(608) 267-1072

Barbara A. Bitters, Chief
Equity and Multicultural Education Section
(608) 266-9609

Francis Steindorf, American Indian Studies Consultant
(608) 267-2283

Melissa Keyes, Sex Equity Programs Consultant
(608) 267-9157

Addie E. Pettaway, Race Equity Programs Consultant
(608) 266-0043

Carole Hunt, Bilingual/ESL Education Program Consultant
(608) 266-5469

Division for Instructional Services

Pauli, Nicolet, Administrator
(608) 266-3361

Bureau for School Improvement
Tom Stefonek, Acting Director
(608) 266-2658

Ken Wagner, Physical Education Consultant
(608) 266-3615

Bureau for Vocational Education
Dean Gagnon, Director
(608) 267-9244

Barbara Schuler, Administrator, Vocational Equity/Single Parent Programs
(608) 267-9170

Eyvonne Crawford-Gray, Single Parent Education Specialist
(608) 266-9368

Appendixes

A. Examples of Required Policies and Procedures
B. What Happens When a School District Receives a Complaint?
C. Elements of the Statute and Rule
D. Annual Reporting Form
E. Five-Year Self-Evaluation Summary

Examples of Required Policies and Procedures

Nondiscrimination Policy

(To be adopted by school board and included in district policy manual.)

The Smithville School District is committed to equal educational opportunity for all pupils in the district.

It is the policy of the Smithville School District, pursuant to s. 118.13, Wis. Stats., and PI 9, that no person, on the basis of sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional, or learning disability, may be denied admission to any school in this district or be denied participation in, be denied the benefits of, or be discriminated against in any curricular, extracurricular, pupil services, recreational, or other program.

This policy also prohibits discrimination under related federal statutes, including Title VI of the Civil Rights Act of 1964 (race, color, and national origin), Title IX of the Education Amendments of 1972 (sex), and Section 504 of the Rehabilitation Act of 1973 (handicap).

It shall be the responsibility of (*designated employee name*) to examine existing policies and develop new policies where needed to ensure that the Smithville School District does not discriminate pursuant to federal and state law. The Smithville School District shall ensure that an employee is designated annually to receive complaints filed under s. 118.13, Wis. Stats.; PI 9, Wis. Admin. Code; Title IX of the Education Amendments; and Section 504 of the Rehabilitation Act of 1973. That employee shall ensure adoption of a complaint procedure to resolve complaints alleging violation of these laws, ensure that an evaluation of the district's compliance with s. 118.13, Wis. Stats., is completed every five years under PI 9, Wis. Admin. Code, and submit Form PI-1197 to the Department of Public Instruction annually.

In addition to adopting this general sample policy, each district should examine existing board policies to ensure that they contain a statement of nondiscrimination, a procedure for complaint resolution, and the name of the district employee who will receive complaints. Specific policies that should be examined include those addressing admissions to schools, classes, programs, and activities; standards and rules of behavior; pupil harassment; suspensions and expulsions; acceptance of gifts, bequests, scholarships, and other aids, benefits, or services to pupils; instructional and library media materials selection; testing evaluation and counseling services; facilities; opportunities for participation in athletic programs or activities; and school-sponsored food service programs. If a district does not have a policy addressing a specific area listed above, one should be developed. Sample policies with the required pupil nondiscrimination statement are available from the Wisconsin Association of School Boards, 122 West Washington Avenue, Suite 500, Madison 53703; (608) 257-2622.

The district should ensure also that these policies and procedures are consistent with any pre-existing civil rights/nondiscrimination policies (for example, federally inspired policies or union grievance procedures).

Public Notification of Nondiscrimination Policy: State and Federal Combined

(Class 1 Legal Notice to be published in area newspaper at least once annually.)

It is the policy of the Smithville School District that no person may be denied admission to any public school in this district or be denied participation in, be denied the benefits of, or be discriminated against in any curricular, extracurricular, pupil service, recreational, or other program or activity because of the person's sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability or handicap as required by s. 118.13, Wis. Stats. This policy also prohibits discrimination as defined by Title IX of the Education Amendments of 1972 (sex), Title VI of the Civil Rights Act of 1964 (race, color, and national origin), and Section 504 of the Rehabilitation Act of 1973.

The district encourages informal resolution of complaints under this policy. A formal complaint resolution procedure is available, however, to address allegations of violations of the policy in the Smithville School District.

Any questions concerning this policy should be directed to:

Sarah Hall
Director of Instruction
Central Administration Office
Smithville School District
Smithville, Wisconsin 53700
(608) 555-1234

(Alternate for last paragraph above.)

Any questions concerning s. 118.13, Wis. Stats., or Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex, should be directed to:

Sarah Hall
Title IX Coordinator
Central Administration Office
Smithville School District
Smithville, Wisconsin 53700
(608) 555-1234

Inquiries related to Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap, should be directed to:

Janet Brown
Section 504 Coordinator
Central Aministrator Office
Smithville School District
Smithville, Wisconsin 53700
(608) 555-1234

Short Version of Statement

(To be included in staff and pupil handbooks, course selection handbooks, and other published materials distributed to the public describing school activities and opportunities.)

The _____ School District does not discriminate against pupils on the basis of sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability or handicap in its education programs or activities. Federal law prohibits discrimination in employment on the basis of age, race, color, national origin, sex, religion, or handicap.

Note to Wisconsin school districts: The Wisconsin Fair Employment Law also prohibits discrimination in employment on the basis of age, race, religion, creed, color, handicap, marital status, sex, national origin, ancestry, sexual orientation, arrest record or conviction record, or membership in the national guard, state defense force, or any other reserve component of the military forces of the United States (s. 111.31, et. seq.).

Short Version of Statement and Complaint Procedure Reference: State

(To be included in staff and pupil handbooks.)

The _____ School District does not discriminate against pupils on the basis of sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability or handicap in its education programs or activities. Federal law prohibits discrimination in employment on the basis of age, race, color, national origin, sex, religion, or handicap.

The district encourages informal resolution of complaints under this policy. However, if any person believes that _____ School District or any part of the school organization has failed to follow the law and rules of s. 118.13, Wis. Stats., and PI 9, Wis. Admin. Code, or in some way discriminates against pupils on the bases listed above, he/she may bring or send a written complaint to the following address: _____

_____

Telephone No. _____

Formal Complaint Procedure

Step 1 A written statement of the complaint shall be prepared by the complainant and signed. This complaint shall be presented to _____ (name of district employee designated to receive complaints). That employee shall send written acknowledgment of receipt of the complaint within 45 days.

Step 2 A written determination of the complaint shall be made by the board within 90 days of receipt of the complaint unless the parties agree to an extension of time; appeals under 20 USC s. 1415 and ch. 115, Wis. Stats., relating to the identification, evaluation, educational placement, or the provision of a free, appropriate public education of a child with an exceptional educational need shall be resolved through the procedures authorized by ch. 115, subch. V, Wis. Stats.

Step 3 If a complainant wishes to appeal a negative determination by the board, he/she has the right to appeal the decision to the state superintendent within 30 days of the board's decision. In addition, the complainant may appeal directly to the state superintendent if the board has not provided written acknowledgment within 45 days of receipt of the complaint or made a determination within 90 days of receipt of the written complaint. Appeals should be addressed to: State Superintendent, Wisconsin Department of Public Instruction, 125 South Webster Street, P.O. Box 7841, Madison, Wisconsin 53707-7841.

Step 4 Discrimination complaints on some of the above bases may also be filed with the federal government at the Office for Civil Rights, U.S. Department of Education, 300 South Wacker Drive, 8th Floor, Chicago, Illinois 60606.

Note: The s. 118.13 complaint procedure is not a labor/management relations law and does not apply to district employees or job applicants as employees. Also, it does not replace the federal regulations that require a school district to have Title IX and Section 504 complaint procedures. *(See page 40 for a sample Title IX/Section 504 complaint procedure.)*

Complaint Procedures: State and Federal Combined

Title IX (sex), Section 504 (handicap), and s. 118.13, Wis. Stats., specify that school districts adopt and publish written complaint procedures for handling discrimination complaints. Note that s. 118.13, Wis. Stats., applies only to allegations of discrimination against pupils, while Title IX and Section 504 apply to both pupils and staff members and in some instances the general public.

Adopted complaint procedures must be disseminated to pupils, parents, employees, organizations, and others to effectively inform them about the processing of grievances. The information must be provided on a continuing basis through the distribution of written materials and/or through periodic briefings. State regulations require that s. 118.13 complaint procedures be included in pupil and staff handbooks.

In addition, written materials through which complaint procedures may be disseminated include:

Newspaper/newsletter articles
Memoranda
Bulletins
Pamphlets/brochures
School catalogs
Course offering booklets/curriculum guides

Periodic briefings on complaint procedures can be done in:

Regular pupil/parent/staff meetings
Special meetings or assemblies
Classroom presentations
Seminars

Maintenance of Complaint Records

The maintenance of complaint records is recommended for the purpose of documenting compliance. Records should be retained for five years and be kept for each complaint filed. At a minimum, the record should include:

1. The name and address of the complainant and his/her title or status.
2. The date the complaint was filed.
3. The specific allegation made and any corrective action requested by the complainant.
4. The name and address of those who responded.
5. The levels of processing followed, and the resolution, date, and decision-making authority at each level.
6. A summary of facts and evidence presented by each party involved.
7. A determination of the facts, statement of the final resolution, and the nature and date(s) of any corrective or remedial action taken.

School districts must submit summary details of complaints annually as part of Reporting Form PI-1197, question number 6. See page 46 for a copy of this form.

Sample Complaint Procedure: Federal Title IX/Section 504 Complaint Procedure

(May be combined with state policy on page 36.)

Gibbsville School District
Discrimination Complaint Procedure

If any person believes that the Gibbsville School District or any part of the school organization has inadequately applied the principles and/or regulations of Title IX (sex) and Section 504 (handicap) or in some way discriminates on the basis of sex, race, color, national origin, age, or handicap, he/she may bring forward a complaint to the Administration Office at the following address: 1763 Huron Drive, Gibbsville, Wisconsin 53700.

Informal Procedure

The person who believes he/she has a valid basis for a complaint shall discuss the concern with the local Title IX or Section 504 coordinator, who shall in turn investigate the complaint and reply to the complainant in writing within five (5) days. If this reply is not acceptable to the complainant, he/she may initiate formal procedures according to the steps listed.

Formal Complaint Procedure

Step 1 A written statement of the complaint shall be prepared by the complainant and signed. This complaint shall be presented to the local Title IX or Section 504 coordinator within five (5) business days of receipt of the written reply to the informal complaint. The coordinator shall further investigate the matters of the complaint and reply in writing to the complainant within five (5) business days.

Step 2 If the complainant wishes to appeal the decision of the local Title IX or Section 504 coordinator, he/she may submit a signed statement of appeal to the district administrator within five (5) business days after receipt of the local coordinator's response to the complaint. The district administrator shall meet with all parties involved, formulate a conclusion, and respond in writing to the complaint within ten (10) business days.

Step 3 If the complainant remains unsatisfied, he/she may appeal through a signed, written statement to the school board within five (5) business days of her/his receipt of the district administrator's response in Step 2. In an attempt to resolve the complaint, the school board shall meet with the concerned parties and their representatives within 15 days of the receipt of such an appeal. A copy of the board's disposition of the appeal shall be sent by the board secretary to each concerned party within ten (10) business days of this meeting.

Step 4 If, at this point, the complaint has not been satisfactorily settled, further appeal may be made to the Office for Civil Rights, U.S. Department of Education, 300 South Wacker Drive, 8th Floor, Chicago, Illinois 60606.

Sample
Discrimination Complaint Form
(For Local Use)

Name	Date

Street Address

Address *City, State, Zip*

Telephone No. *Home*	Telephone No. *School or Work Location*

Status of Person Filing Complaint

❑ Pupil ❑ Employee ❑ Parent ❑ Other *Specify* _____

Filing complaint alleging discrimination on the basis of

Statement of complaint (include type of discrimination charged and the specific incident(s) in which it ocurred)

Corrective action requested

Signature of Complainant ➤	Date Signed
Signature of Person Receiving Complaint ➤	Date Received

Submit all copies to (employee designated to receive complaints), or the immediate supervisor, or their respective secretaries. The person receiving the complaint will sign and date the complaint. One copy will be returned to the complainant, and one copy will be sent to the designated employee.

Distribution: 1st copy—Complainant
2nd copy—Designated Employee

Notification to Complainant of Right to Appeal

(School district name)

(School district address)

I have received written determination by the school board of my complaint alleging violation of s. 118.13, Wis. Stats. I understand that I have the right to appeal a negative determination to the state superintendent within 30 days and that to make such an appeal I would contact the following:

Complaint Officer/Pupil Nondiscrimination
Wisconsin Department of Public Instruction
125 South Webster Street
P. O. Box 7841
Madison, WI 53707-7841

_____

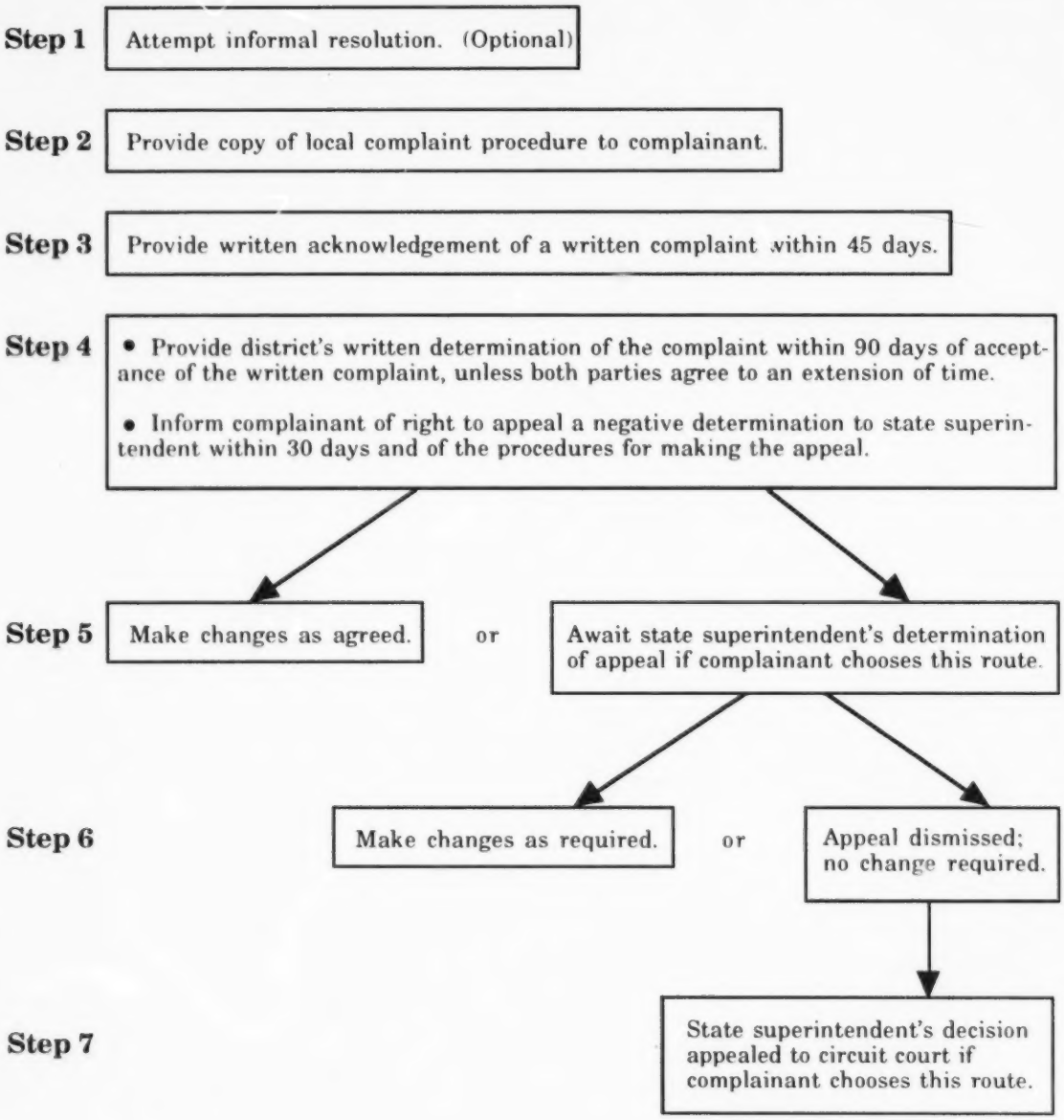
Signature of Complainant

_____

Date

Distribution: 1st copy—Local employee designated to receive complaints
2nd copy—Complainant

What Happens When a School District Receives a Complaint?


Step 1
Attempt informal resolution. (Optional)
Step 2
Provide copy of local complaint procedure to complainant.
Step 3
Provide written acknowledgement of a written complaint within 45 days.
Step 4
• Provide district's written determination of the complaint within 90 days of acceptance of the written complaint, unless both parties agree to an extension of time.
• Inform complainant of right to appeal a negative determination to state superintendent within 30 days and of the procedures for making the appeal.
Step 5
Make changes as agreed.
or
Await state superintendent's determination of appeal if complainant chooses this route.
Step 6
Make changes as required.
or
Appeal dismissed; no change required.
Step 7
State superintendent's decision appealed to circuit court if complainant chooses this route.

Elements of the Wis. Statute 118.13 and Rule PI 9

The next page contains a working outline of s. 118.13, Wis. Stats., and the definitional elements in PI 9. Districts may find this useful in applying the law and rule in response to any complaints received.

Viewing the statute and rule in this fashion makes several matters clear:

- Not every violation of the statute must include proof of "discrimination," as defined. "Discrimination" is only one of four ways of violating the statute. If it is shown that a person has been denied admission to, participation in, or benefits of the various curricular and extracurricular school-approved programs in part on the basis of protected class status, there is a violation without proof of "discrimination."
- A person claiming that a district is "discriminating" may seek to prove that discrimination by suggesting or establishing that the district's action constitutes bias, stereotyping, or pupil harassment, all as alternatives and only one of which may suffice to establish a violation.
- A key element of proof of "discrimination" is that the bias, stereotyping, or pupil harassment be "detrimental."

Elements of Wis. Stat. 118.13 and PI 9

No person

- based in whole or in part on protected class status (sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability)

May be

- denied admission to any public school, or
- denied participation in, or
- denied benefits of, or
- discriminated against in

Any

- curricular program or activity,
- extracurricular program or activity approved or sponsored, by the school board whether on or off school property,
- pupil services program or activity,
- recreational program or activity approved, sponsored or administered by the school board, or
- any other program or activity approved or sponsored by the school board.

Discrimination means

- Any action, policy, or practice of the school or school board affecting a person or group of persons including:
  - — bias = inclination for or against, that inhibits impartial or objective judgment affecting pupils, or
  - — stereotyping = attributing behavior, abilities, interests, values, or roles, or
  - — pupil harassment = behavior toward pupils which
    - substantially interferes with a pupil's school performance, or
    - creates intimidating, hostile, or offensive school environment
- Which is detrimental and which
  - — differentiates or distinguishes among persons, or
  - — limits or denies a person or group of persons, opportunities, privileges, roles, or rewards, or which
  - — perpetuates the effects of past discrimination, and
- Which is based in whole or in part on a protected class status.

Appendix D

Annual Reporting Form

Wisconsin Department of Public Instruction
COMPLIANCE REPORT—
PUPIL NONDISCRIMINATION
PI-1197 (▼ Rev. 7-93)

INSTRUCTIONS: Attach additional documents as required. Return By **AUGUST 1** to:

WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION
DIVISION FOR HANDICAPPED CHILDREN AND
PUPIL SERVICES—BEC
P.O. BOX 7841
MADISON, WI 53707-7841

The purpose of this report, as required by s. 118.13 (WI Stats.), is to assure that the school district is in compliance with Wisconsin statute and with Ch. PI 9 of the Administrative Code and to assist the State Superintendent in complying with s .118.13(3)(a)3 in reporting on the status of school district compliance.

District Code

School District Name

School District Address

Explain all "no" responses.

Yes ☐ No ☐

1. Policies on nondiscrimination have been developed and adopted by the board as required under s. PI 9.03(1). Policies include:
   - A) Admissions [PI 9.03(1)(a)].
   - B) Standards and Rules of Behavior [PI 9.03(1)(b)]
   - C) Disciplinary Actions [PI 9.03(1)(c)].
   - D) Acceptance and Administration of Gifts, Bequests, and Scholarships [PI 9.03(1)(d)].
   - E) Instructional and Library/Media Materials Selection [PI 9.03(1)(d)].
   - F) Testing, Evaluation, and Counseling Methods, Practices, and Materials [PI 9.03(1)(f)].
   - G) Facilities [PI 9.03(1)(g)].
   - H) Athletic Programs/Activities [PI 9.03(1)(h)].
   - I) School-Sponsored Food Service Programs [PI 9.03(1)(i)].
   - J) Other *Specify* _____

☐ ☐ 2. The policies were adopted following an opportunity for public comment as required under s. PI 9.03(3).

☐ ☐ 3. The Board has established a procedure for receiving and resolving complaints under s. 118.13, Stats. [PI 9.04(2) and (3)].

☐ ☐ 4. The Board has designated an employee to receive complaints regarding nondiscrimination under s. 118.13, Stats., as required under s. PI 9.04(1). Please provide the following information:

Employee Name | Employee Title/Position

Employee Address | Telephone *Area/No.*

☐ ☐ 5. The Board has provided public notice and information on pupil nondiscrimination [Pi 9.05] as follows:
   - A) Annual Class 1 Public Notice of Nondiscrimination Policies includes name and address of designated employee and complaint procedure as required by PI 9.05(1).
   - B) Nondiscrimination statement appears on published materials as required by PI 9.05(2).
   - C) The complaint procedure is included in pupil and staff handbooks as required by PI 9.05(3).

☐ ☐ 6. Has the school board received complaints under s. 118.13, Stats., during the preceding school year? **If yes, attach a description of each complaint and its determination.**

☐ ☐ 7. Do you want technical assistance from the Department in meeting the requirements of this statute? [PI 9.08(2)(a)]. **Attach explanation of assistance desired.**

Signature of School District Administrator ➤ | Date Signed

BEST COPY AVAILABLE

Five-Year Self-Evaluation Summary

Wisconsin Department of Public Instruction
SCHOOL SELF-EVALUATION SUMMARY
for Status of Pupil Nondiscrimination
PI-1198 (▼ Rev. 7-93)

INSTRUCTIONS: Complete and return by **AUGUST 1** to:

WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION
DIVISION FOR HANDICAPPED CHILDREN AND PUPIL SERVICES
PROGRAM REVIEW AND COMPLIANCE SECTION
P.O. BOX 7841
MADISON, WI 53707-7841

In addition to this report to be prepared every 5 years, an annual compliance report is required (PI-1197), including the name of the employee designated to receive discrimination complaints, the number of complaints, and a description of each complaint and its status.

School District	Address *Street, City, State, Zip*
Designated Employee	Signature of School District Administrator ➤

a) School Board policy and administrative procedure

1. The following policies have been developed with appropriate nondiscrimination statement and adopted by the board

POLICY	POLICY NUMBER	DATED ADOPTED
❑ General policy on nondiscrimination		
❑ Admission to any school, class, program, or activity		
❑ Standards and rules of behavior *Including pupil harassment*		
❑ Disciplinary actions *Including suspensions and expulsions*		
❑ Acceptance and administration of gifts, bequests, scholarships and other aids, benefits, or services to pupils from private agencies, organizations, or individuals.		
❑ Instructional and library media materials selection *Policy consistent with s. 121.01(1)(h), Stats. (cultural pluralism and ethnic diversity)*		

Methods, practices, and materials used for

- ❑ testing
- ❑ evaluating
- ❑ counseling
- ❑ Facilities
- ❑ Opportunity for participation in athletic programs/activities
- ❑ School-sponsored food service programs
- ❑ Complaint procedure

2 Remedial steps taken — Proposed completion date

b) Enrollment trends in classes and programs

1. Process used to evaluate this section

2. Finding

3. Modifications proposed to compensate for inequities Proposed date of implementation

c) Methods, practices, curriculum and materials used in instruction, counseling, and pupil assessment and testing

1. Processes used to evaluate this section

2. Findings

3. Modifications proposed to compensate for inequities Proposed date of implementation

d) Trends and patterns of disciplinary actions, including suspensions, expulsions, and handling of pupil harassment.

1. Processes used to evaluate this section

2. Findings

3 Modifications proposed to compensate for inequities Proposed date of implementation

e) Participation trends and patterns and school district support of athletic, extracurricular, and recreational activities.

1. Process used to evaluate this section

2. Findings

3. Modifications proposed to compensate for inequities — Proposed date of implementation

f) Trends and patterns in awarding scholarships and other forms of recognition and achievement provided or administered by the district.

1. Process used to evaluate this section

2. Findings

3. Modifications proposed to compensate for inequities — Proposed date of implementation

g) School district efforts to achieve equality of educational opportunity and nondiscrimination.

1. Activities — Dates — Participants

SELF-EVALUATION COMMITTEE [PI 9.06(2)]
Please list by name

PUPILS

TEACHERS

ADMINISTRATORS

PARENTS

COMMUNITY/RESIDENTS OF DISTRICT